

MINUTES OF MEETING
CASS COUNTY JOINT WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
MAY 14, 2015

The Cass County Joint Water Resource District met on May 14, 2015, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Mark Brodshaug and Dan Jacobson, Southeast Cass Water Resource District; Rodger Olson, Maple River Water Resource District; Ken Lougheed, North Cass Water Resource District; Raymond Wolfer, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Sean M. Fredricks, Lukas Andrud and John Shockley, Attorneys for the Board; Lee Beauvais and Kurt Lysne, Engineers for the Board; Bruce Spiller and John Albrecht, CH2M HILL Engineers, Inc.; Eric Dodds, Dustin Dale, Rocky Schneider and Tanaya Reitz, Advanced Engineering and Environmental Services, Inc. (AE2S); Jason Benson, Cass County Engineer; Pat Downs, Moore Engineering, Inc.; Jim Nyhof, Mayor of Oxbow, Dave Campbell and William Kuzas, Oxbow residents; Paul Breen, Fargo resident, David Strand, Amenia resident; Jacob Gust, Reed Township resident; and Tu-Uyen Tran, The Forum.

Minutes

It was moved by Manager Jacobson, seconded by Manager Lougheed, and unanimously carried to approve the minutes of the April 20, 23, 29 and May 5, 2015 meetings.

Agenda

It was moved by Manager Lougheed, seconded by Manager Wolfer and unanimously carried to approve the agenda, as amended.

Oxbow-Hickson-Bakke Ring Levee Project – injunction

Sean M. Fredricks said an injunction ordered by a Minnesota U.S. District Judge stops construction on the Oxbow-Hickson-Bakke Ring Levee Project until the Minnesota Department of Natural Resources completes its Environment Impact Study (EIS).

Discussion was held on the language in the injunction and the specific project impacts. It is believed that property acquisition, assessment district activities and work on the Oxbow Golf and Country Club can continue to move forward.

There will be some financial impacts due to delaying Work Package 43D contracts on the Oxbow-Hickson-Bakke Ring Levee Project. CH2M HILL, Engineers, Inc. will issue an addendum to Work Package 43D.

Mayor Jim Nyhof stated the annexation hearing will be held on May 18, 2015. Oxbow representatives reported many residents are anxious and wondering what the injunction means for them. An informational meeting will be held with residents on May 19, 2015, at the Hickson Community Center.

The Diversion Authority plans to discuss the injunction and the impacts at the meeting later today.

Metro Flood Diversion Project – assessment district

Discussion was held on FM Flood Risk Management District No. 1. Additional minutes relating to FM Flood Risk Management District No. 1 are attached hereto. The assessment hearing will be scheduled at a future meeting.

Metro Flood Diversion Project – access update

Lukas Andrud updated the Board on access issues. Cultural surveys are being done on properties with signed agreements, as well as those ordered through the court process.

North Pleasant Cemetery has allowed access. There has been good feedback on the comprehensive reports received as a result of the survey work. The Corps of Engineers will present information on the cemeteries and proposed solutions for mitigation to the Land Management Committee this afternoon. The information will then be presented to the Diversion Authority.

Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – relocation benefits

Tanaya Reitz reviewed the *Oxbow Replacement Housing Summary* and Eric Dodds explained “Housing of Last Resort”. Purchase Agreements have been signed on 12 homes out of 40 regarding the Oxbow-Hickson-Bakke Ring Levee Project.

It was moved by Manager Jacobson and seconded by Manager Wolfer to approve the Relocation Payments as outlined in the letter dated May 11, 2015, regarding the Oxbow-Hickson-Bakke Ring Levee Project and the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – land acquisition – *Memorandum of Understanding with the Fire Department of the City of Fargo*

Mr. Fredricks explained that the Fargo Fire Department would like to do training exercises on properties acquired by the Cass County Joint Water Resource District for flood protection measures.

It was moved by Manager Olson and seconded by Manager Loughheed to approve and authorize Chairman Brodshaug to sign the *Memorandum of Understanding* between the Fire Department of the City of Fargo and the Cass County Joint Water Resource District. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – land acquisition

It was moved by Manager Jacobson and seconded by Manager Olson to approve and authorize Chairman Brodshaug to sign the following:

- *Purchase Agreement, Replacement Housing Agreement, and the Construction Contract Addendum* for 813 Riverbend Road, Oxbow, North Dakota, regarding the Oxbow-Hickson-Bakke Ring Levee Project;
- *Purchase Agreement, Replacement Housing Agreement, Construction Contract Addendum* for 338 Schnell Drive, Oxbow, North Dakota, regarding the Oxbow-Hickson-Bakke Ring Levee Project;
- *Purchase Agreement, Replacement Housing Agreement, Construction Contract Addendum* for 328 Schnell Drive, Oxbow, North Dakota, regarding the Oxbow-Hickson-Bakke Ring Levee Project;

Upon roll call vote, the motion carried unanimously.

It was moved by Manager Loughheed and seconded by Manager Wolfer to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* for 326 Schnell Drive, Oxbow, North Dakota, regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Olson and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the *Temporary Access Easement* for Lot 2, Block 4, North Dakota R-2 Urban Renewal Addition to the City of Fargo regarding the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Loughheed and seconded by Manager Olson to approve and authorize Chairman Brodshaug to sign the *Agreement for Entry and Construction* for Parcels 7-1, 7-2 and 7A Part of Lot 3, Block 4, North Dakota R-2 Urban Renewal Addition to the City of Fargo regarding the In Town Levees Project. Upon roll call vote, the motion carried unanimously.

Premises liability insurance through the North Dakota Insurance Reserve Fund for properties owned by the Cass County Joint Water Resource District was discussed. The matter will be discussed further at the next meeting.

Indemnification of the Cass County Joint Water Resource District by the Diversion Authority was discussed. Further discussion will be held on the matter at the next meeting.

Ms. Reitz reviewed the *Land Management Summary*.

It was moved by Manager Jacobson, and seconded by Manager Olson to approve Task Order No. 1, Amendment 5, for Ulteig Engineers, Inc. to increase the budget \$80,950 for a total of \$630,950 for land acquisition services regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Metro Flood Diversion Project – bonding

John Shockley reviewed the draft *Intergovernmental Agreement* between the Cass County Joint Water Resource District, Cass County and the City of Fargo regarding financing of the Metro Flood Diversion Project. The agreement sets out the dedication of sales tax revenues to pay debt service.

Rodger Olson left the meeting at this time.

Metro Flood Diversion Project – project updates

It was moved by Manager Jacobson and seconded by Manager Wolfer to hire Techtron Engineering to conduct asbestos surveys and reports for the In Town Levees Project, not to exceed a total cost of \$17,900. Upon roll call vote, the motion carried unanimously. Work will start on the project tomorrow.

It was moved by Manager Lougheed and seconded by Manager Wolfer to authorize CH2M HILL Engineers, Inc. to hire a contractor to repair storm water erosion control for the Oxbow-Hickson-Bakke Ring Levee Project, not to exceed a total cost of \$5,000. Upon roll call vote, the motion carried unanimously.

Chairman Brodshaug stressed the importance of property acquisition matching project construction and asked the consultants to be mindful of the project schedules.

Bruce Spiller gave a presentation on Public Private Partnership (P3) options.

Discussion will be held at the next meeting on the *Third Amendment to Joint Powers Agreement* to establish the “Dakota Metro Flood Board” regarding the Metro Flood Diversion Project.

State Water Commission Agreements for Cost-Share Reimbursement for Phase II Detention Studies in the Upper Maple River Watershed, Swan Creek Watershed and Rush River Watershed

It was moved by Manager Olson and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the State Water Commission *Agreements for Cost-Share Reimbursement* for the following:

- Upper Maple River Watershed Detention Study – Phase II
- Swan Creek Watershed Detention Study – Phase II
- Rush River Watershed Detention Study – Phase II

Upon roll call vote, the motion carried unanimously.

Reimbursement request #13 from Diversion Authority from funds administered by the State Water Commission, pursuant to SB 2020

It was moved by Manager Jacobson and seconded by Manager Wolfer to approve and authorize the Secretary-Treasurer to sign reimbursement request #13 from the Diversion Authority from funds administered by the State Water Commission, pursuant to SB 2020. Upon roll call vote, the motion carried unanimously.

Bills

It was moved by Manager Lougheed and seconded by Manager Wolfer to approve the payment of Checks #11843, #11845 through #11894, and the electronic funds transfer, as presented. Upon roll call vote, the following Manager voted in favor: Brodshaug, Jacobson, Lougheed, and Wolfer. Manager Olson was absent. The Chairman declared the motion passed.

Western Cass FIS

Kurt Lysne updated the Board on the comments and suggestions he provided to BakerAECOM on the HEC-RAS Model for Western Cass, North Dakota. BakerAECOM has incorporated the comments and suggestions and will be presenting the project status and progress to-date to the Board on May 15, 2015.

It was moved by Manager Wolfer and seconded by Manager Lougheed to authorize Moore Engineering, Inc. to continue review of the unsteady HEC-RAS model created by BakerAECOM for Western Cass County, North Dakota, not to exceed \$20,000. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Lougheed, seconded by Manager Jacobson, and unanimously carried to adjourn the meeting.

APPROVED:

Mark Brodshaug
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer